



VOLUNTEER MONITORING MANUAL

WITH SAMPLE MONITORING FORMS

SAMPLES

- MONITORING REPORT
- PHOTOPPOINT INDEX
- MONITORING ROUTE MAP
- PHOTO PROTOCOL

I. INSTRUCTIONS FOR CONSERVATION EASEMENT MONITORING

Why do we monitor?

Conservation easements, as well as the associated baseline documentation of a property, are meant to protect a property's conservation values in perpetuity. IRS regulations specify that to be an eligible conservation easement donee, an organization must have a commitment to protecting the conservation purposes of an easement donation (see Treas. Reg. 1.170-A-14(c)(1)).

Monitoring is the regular inspection and documentation of the condition of a property protected with a conservation easement. It is usually completed in person by walking the protected property in some cases monitoring can be accomplished through viewing the property by car, by boat, or by aerial flyover. However, only personal visits meet some of the purposes outlined below. Monitoring visits are documented in writing and with appropriate photographs.

The purpose of monitoring is to document the condition of and the human and natural changes on a property over time so that the Land Trust can ensure that the conservation easement is being upheld. Equally important, regular monitoring helps to maintain a continuous relationship with the landowner(s). The 6 keys to preserving the conservation values of an easement and preventing violations are¹:

- 1) An easement document with clear and enforceable restrictions.
- 2) A commitment to enforce an easement, through legal action if necessary.
- 3) Strong financial planning to ensure adequate stewardship funding.
- 4) A program of regular, systematic, and well-documented monitoring.**
- 5) Good record-keeping.**
- 6) A positive relationship with the property owner and the community.**

Numbers **4**, **5**, and **6** are where monitors play the most critical role. Monitors' "eyes and ears" in the field help us maintain landowner relations, catch an easement violation *before* it becomes so deeply entrenched that only legal action will resolve the situation, and accurately document land use changes in case we do have to resort to legal action.

With these 6 conservation easement stewardship keys in place, the likelihood that we will have to resort to mediation or litigation is greatly diminished. Unfortunately, violations are inevitable. When an easement dispute does arise, well-documented records can provide critical evidence. Furthermore, regular monitoring demonstrates a commitment to protecting our conservation easements to landowners, the community, and the court. Monitoring is conducted on a regular basis, usually annually, or more frequently if needed. The monitoring calendar "year" begins in July and runs through June.

Information for monitoring your assigned conservation easement is located in the **Monitoring Binder**. Please remember to record all communications with the landowner in the **Contact Log**, which is found in the Monitoring Binder. Copies of written correspondences should be put in the **Correspondence File** (also in the Monitoring Binder), and referenced in the Contact Log. Blank monitoring reports are also included in the Monitoring Binder.

Remember that each monitoring inspection is **private and confidential**. The information collected regarding the visit is not to be shared with others.

¹ Brian Rod, Taos Land Trust Program Associate, 2000.

While a monitoring inspection is interesting and enjoyable, it is work that you are performing for the Land Trust. This is not the time to invite friends or family for a hike on private lands. It is not the time to invite a nearby neighbor to visit a property s/he has wanted to see. **Without the landowner's expressed permission, no one other than the members of the Monitoring Committee should accompany you on an annual inspection.** The landowner has given a conservation easement to the Land Trust with the written understanding that the property continues to be private. Your inspection is an important part of a legal process that is in place to ensure that the property remains consistent with the details of the easement the owner has signed.

Before the Inspection

- (1) In the first quarter of each year, the Land Trust office sends a letter to each landowner updating him/her on the Land Trust's accomplishments, the reasons for the monitoring inspection visit, and alerting the landowner that a volunteer monitor will be contacting them to arrange an inspection in the upcoming monitoring year.
- (2) The lead monitor for each inspection picks up the **Monitoring Binder** for their property. These binders include the following:
 - ◆ General landowner contact information, a contact log, and directions to the property.
 - ◆ Monitoring instructions, blank forms, and an inspection checklist.
 - ◆ A copy of the permitted rights and restrictions from the conservation easement.
 - ◆ A copy of the baseline documentation and property maps.
 - ◆ Copies of prior annual monitoring reports.
 - ◆ Copies of correspondences with the property owner.
 - ◆ Copies of any news items relevant to the property and/or owner.
- (3) The lead monitor **contacts the landowner(s) and arranges the inspection date. Invite the landowner or assigned representative to accompany you**, and make every effort to schedule the visit when the landowner or representative can attend. Not only is this a great way to establish a cooperative relationship with the landowner, but the landowner is often the one who knows the property best and can point out potential problem areas (e.g., boundaries). If this is a landowner's first experience with a monitoring inspection, take the time to explain the monitoring procedure and the role of the Land Trust in protecting the property's conservation values. Remember to record all communications with a property owner or representative in the Contact Log in the Monitoring Binder.
- (4) The lead monitor **contacts other members of the monitoring inspection team** and coordinates the inspection with them, including gathering of equipment, establishing an inspection route, assignment of roles (e.g., note-taking, photographing), etc.
- (5) **Review the conservation easement** reserved rights and restrictions, past monitoring reports, recent correspondences with the landowner, and other materials included in the Monitoring Binder. Ask Land Trust staff if you have any questions.
- (6) **Set monitoring priorities** ahead of time (e.g., boundaries, existing access or utility easements, building sites, stream habitats, public access areas). Priorities should be adapted to the specific conservation values of the property. Take difficulty of terrain and distance into consideration when planning your route and length of time for your monitoring visit.

During the Inspection

- (1) Your route will depend on the property. For properties without established photo-point monitoring routes, **walk the property boundary first, and then inspect the interior.** Experienced easement holders report that most easement violations occur at the boundaries, e.g., by trespassing, and often without a property owner's awareness. Inspect as much of the interior as is practical. Focus on areas specifically mentioned in the reserved rights and restrictions of the conservation easements, areas where new construction is occurring, and areas accessible to the public. If property size, remoteness, or topography make it impractical to walk the entire property, vary your annual monitoring routes so that a different portion of the property each year is covered, and so that the entire property is seen on a rotation of every 2-3 years. **Note which route you take in a given year in your annual monitoring report by drawing the route and arrows indicating which direction you traveled.**
- (2) **Document current conditions.** Compare current conditions with those documented in past monitoring reports and photos (if available). As thoroughly and objectively as possible, document all observed natural and human-caused changes on the property. Complete the monitoring report provided in the monitoring binder or available electronically online from the Monitoring Coordinator. If you suspect an easement violation, record this and any other concern, as well as speculations, on page 3 only: the portion of your report only reviewed by Land Trust staff. Use photographs and copies of property maps to document any major changes in property condition or land use.
- (3) **At the end of the visit,** before leaving the property, **draw your monitoring route on one of the monitoring maps.** If time allows, quickly review the monitoring report with the other monitors and make notes of important items to report.

Completing the Monitoring Report

- (1) **Completely fill out your monitoring reports within 2 weeks upon completion of your inspection.** Some lead monitors send the report electronically to the other monitors assisting on the hike to let them make any additions. The longer you wait, the more you might forget!
- (2) Remember to keep your observations on pages 1-2 of the monitoring report as objective and factual – but still thorough – as possible. Copies of pages 1-2 will be sent to the landowner. If you have additional concerns that the Monitoring Committee chair and Land Trust staff should address, please note these concerns, and issues, on **page 3 only**.
- (3) **Use the photo-point log to include a written narrative of the photo of the subject and location of each photograph.** Reference each description to the Photo # on the photograph. Illustrate photograph photopoint location, if possible, on a map of the property.
- (4) **Sign, and date, all documents with which you supplement the monitoring report.** Include photograph negatives for film. Complete a Chain of Custody form for digital photographs. Print photographs must be labeled with a waterproof pen (Sharpie) as follows:

Photo #: _____ Roll/Negative Frame #: _____

Conservation Easement: _____

Inspection Date: _____

Monitor (print name): _____

Monitor's signature: _____

Please write legibly so that others can read your comments!

- (3) Each landowner's property interest in a conservation easement is separate and distinct from every other landowner's interest. **If a conservation easement is in three distinct parcel ownerships, three separate reports must be written, one for each owner.** Note: the reverse is *not* true. If a single entity owns multiple parcels covered by a single conservation easement, one report suffices for the multiple parcels.
- (4) **Return your completed report, and all accompanying documentation, to the Land Trust office as soon as possible.** Our timely response to potential violations depends upon the timely completion of your report. Please return the Monitoring Binders so that we can keep them updated and prepare them for the following year's inspection. Make notes of any changes that need to be changed in the files (new phone numbers, change of owners etc.)
- (5) The Monitoring Committee chair and the LTNC Monitoring Coordinator will review each monitoring inspection report. Those that report no easement violations or other concerns will be filed at the Land Trust office with a copy of the report sent to the landowner. Reports with expressed concerns or otherwise suspected easement violations will be further reviewed by the LTNC Executive Director and Protection Committee. A plan will then be decided upon for addressing these concerns and assessing whether or not a violation has occurred.

References

Diehl, Janet and Thomas S. Barrett, et al. 1988. *The Conservation Easement Handbook: Managing Land Conservation and Historic Preservation Easement Programs*. Trust for Public Land, San Francisco, CA, and Land Trust Alliance, Washington, D.C.

Land Trust Alliance. 1997. *The Standards and Practices Guidebook: An Operating Manual for Land Trusts*. Land Trust Alliance, Washington, D.C.

Lind, Brenda. 1991. *The Conservation Easement Stewardship Guide: Designing, Monitoring, and Enforcing Easements*. Washington, D.C., Land Trust Alliance and Concord, N.H., Trust for New Hampshire Lands.

Taos Land Trust. Original Documents and Personal Communication. 2000. Brian Rod, Program Associate. P.O. Box 376, Taos, New Mexico 87571. (505) 751-1189.

Wohlgemant, Tim. April 1997. *Standards and Practices for the Stewardship of Conservation Easements*. The Colorado Coalition of Land Trusts

These references and more are available at the Land Trust office.

II. MONITORING: ISSUES AND VIOLATIONS

What constitutes a violation?

Technically, a violation is the use of the protected property contrary to the terms of the conservation easement. The Land Trust of Napa County views all potential violations seriously and is prepared to enforce the terms of its easements.

It is sometimes difficult to determine if a violation has occurred. Situations can be ambiguous, and sometimes undesirable activities are not clearly addressed by the easement. The cause of the problem could be from a number of different possibilities. Sometimes issues arise from others using the property including employees, property managers, neighbors or what we refer to as "third parties." **It is important for monitors – particularly volunteers – not to confront or accuse the landowner of any wrongdoing at the time of the visit.**

If you encounter a violation

- (1) **Listen to the landowner.**

If the landowner is present, you may ask about the problem in a non-confrontational manner. For example you may ask about the "new building" down in the south forty or the "trees cut in the for-ever

wild”. Answers will vary. The landowner may identify the cause, offer an explanation or get defensive. Write down what was said as soon as practicable or immediately after the monitoring has been completed.

(2) Determine the cause, if possible.

- Force of nature such as wind, erosion, fire or insects
- Landowner, property manager or tenant
- Third party violations such as neighbors

(3) Determine the landowner’s proposed course of action or repair, if possible. A landowner may already be working to correct a situation. For example, the landowner may be planning to clean up from a windstorm, or is dealing with a neighbor’s garbage etc. Report whatever the landowner might be considering in as much detail as possible.

(4) Document the damage.

Take as many photographs and try to quantify the issue as well as possible to identify the problem and mark locations of a map. If you are GPS savvy, establish a waypoint or obtain a location. If photos aren’t possible, be sure to record detailed observations of the potential problems on the monitoring report form ASAP and inform Land Trust staff when you get back from your visit.

(5) Stay on good terms with the landowner.

It is very important for all monitors to stay objective and remain on good terms with the landowner at the time of the monitoring visit. Volunteers should not try to resolve the specific details of any issue or violation. Violations are often sensitive and complicated and will require additional consultation with staff. If at any time, the landowner appears uncomfortable or defensive, do not press the subject, just continue the monitoring visit or end the visit as appropriate.

It is NOT a volunteer’s job to do any of the following:

- Interpret the terms of the conservation easement for the landowner. Direct any questions the landowner may have about the easement to the Land Trust staff.
- Approve or disapprove any future plans or reserved rights the landowner may wish to discuss.
- Accuse the landowner of violating the terms of the easement.
- Carry out any kind of mediation or enforcement action regarding a violation.

(6) Notify the Land Trust As Soon As Possible.

Report the issue or violation to Land Trust staff’s Easement Monitoring Coordinator, Executive Director or Committee Chair as soon as possible.

Violations that are obvious (new building in non-development zone) or are in progress (grading, tree cutting) should be reported immediately. Staff will review the situation with the monitor and Monitoring Committee Chair to determine what steps need to be taken. The Protection Committee reviews issues and violations not immediately resolved at the staff level.

III. CONFIDENTIALITY POLICY AND VOLUNTEER AGREEMENT

Policy Statement

It is the policy of the Land Trust of Napa County to maintain the confidentiality of sensitive information and to protect its proprietary data. In particular, employees, volunteers and members of all committees and the

Board of Directors are not to discuss confidential or proprietary information with anyone within or outside of the organization who is not authorized to receive such information.

In addition, employees, volunteers and members of all committees and the Board of Directors are not to use their Land Trust position and/or knowledge of Land Trust activities to conduct activities or transactions that have not been specifically authorized by the Land Trust. Reports of such incidents shall be reviewed by the appropriate committee chair, executive director, executive committee or board, and depending on the nature of the activity and may result in termination of membership.

Background

From time to time, Land Trust employees, volunteers and committee and board members all have access to sensitive, and sometimes proprietary, information related to Land Trust activities. This might include membership and donor information (including histories or property appraisals), the contents of land project files, private property information, information in personnel files, financial data, negotiation details, technical information or strategic and other internal business plans. This information may be written, in electronic form or received verbally.

The Land Trust recognizes the fundamental importance of respecting the privacy of its employees, volunteers, donors, conservation partners and business associates as well as the need to keep sensitive and proprietary information confidential. It has a legitimate interest in protecting this information from unauthorized disclosure or use. Reports of persons using their association with the Land Trust to conduct unauthorized access to property have been noted. Such activity is unethical and damaging to the organization's reputation. This policy is intended to remind staff and volunteers of the importance of maintaining the confidentiality of information they learn through association with the Land Trust.

IV. STAFF CONTACTS

Lena Septimo, Lands Project Manager

Phone: (w) 707.261.6316 (c) 707.227.7571 (h) 707.258.1663

Email: lena@napalandtrust.org

John Hoffnagle, Executive Director

Phone: (w) 707.252.0435 (c) 707.326.0314

Email: john@napalandtrust.org

Theresa Andrews, Office Manager

Phone: (w) 707.252.1996

Email: theresa@napalandtrust.org

APPENDIX A: VOLUNTEER MONITOR COMMITTEE PROGRAM

The Land Trust of Napa County relies extensively on a network of volunteers to help monitor the numerous properties on which it holds conservation easements. Monitoring is one of the most important ways of maintaining positive landowner relationships and ensuring landowners continue to understand and comply with the terms of their easements.

In order to ensure that all volunteer monitors are adequately trained to complete this important task, the Land Trust requires Monitoring Committee Members to participate in a number of activities:

- Complete an application.
- Attend an initial orientation monitoring training session. One-on-one training with Land Trust staff may substitute for an orientation session.
- Read through and understand training materials.
- Agree to the Land Trust's Confidentiality Policy.
- Attend a field training session.
- Monitor their first property with Land Trust staff or an experienced monitor committee member.
- Attend follow-up/refresher monitoring training sessions as scheduled.

Participation on the Monitoring Committee requires several responsibilities:

- Maintain landowner confidentiality.
- Use your Land Trust association for authorized activities only.
- Represent the Land Trust in a professional, non-political manner.
- Commit to lead on monitoring at least one property a year.
- Complete monitoring reports in a timely manner.
- Mentor new monitor committee members.

APPENDIX B: POSITION DESCRIPTION: VOLUNTEER MONITOR

Volunteer monitors serve as the “eyes and ears” for the Land Trust of Napa County. As a volunteer field monitor, you will be part of a collaborative effort involving landowners, Land Trust staff and other volunteers. Duties include monitoring the terms of conservation easements on privately owned protected properties throughout Napa County. Volunteer monitors have several important responsibilities, including:

- Complete on-the-ground inspections of protected properties and document any changes on the landscape or alterations to man-made features with photos and written comments.
- Cultivate positive relationships with landowners and convey questions or concerns landowners may have about their easement to the Land Trust.
- Help to keep monitoring records and conservation easement files updated.
- Discuss your observations with Land Trust staff.
- Enjoy the outdoors and have Fun!

Volunteer monitors should meet the following qualifications:

- Participation in an orientation and field training.

- Willingness to monitor at least one protected property a year for at least two to three years. This is typically a one day commitment per property.
- Ability and willingness to travel to protected properties (must have a valid driver's license if driving).
- Physically able and willing to hike around and inspect properties, possibly through forest, brush, wetlands and other difficult terrain and environments.
- Familiarity with the Land Trust, its mission and purpose, and monitoring procedures.
- Be a member of the Land Trust.
- Able to maintain the confidentiality of landowners, private plans and intentions regarding their land.
- Represent the Land Trust's neutral position on political issues.
- Personable and diplomatic – working well with a wide variety of people.
- Good communication skills.
- Detail oriented – good record keeping skills and able to complete a short written monitoring report.
- Reliable.
- Be at least 18 years old.

APPENDIX C: VOLUNTEER MONITOR APPLICATION



Contact Information:

Name: _____

Address: _____

City: _____ Zip: _____

Phone #: (h) _____ (w) _____

(c) _____

E-mail: _____ Preferred contact: _____

Experience:

You do not have to have any experience in conservation to be a volunteer monitor for the Land Trust of Napa County. However, we would like to know about any special skills you may bring to the position. Please indicate if you have any experience with the following activities:

_____ photography _____ species identification

_____ working with maps, compass, GPS _____ natural resource management

Please describe your level of hiking experience: _____

Please tell us a little about your experience and or interest in becoming a volunteer monitor: _____

Availability:

When: When would you be available to volunteer with the Land Trust?

____ Sun ____ Mon ____ Tues ____ Wed ____ Thurs ____ Fri ____ Sat

Hours/Time Preference: _____

Where: Please indicate any areas or types of properties in which you would be interested in monitoring protected properties (e.g. location; habitat type): _____

Are you allergic to poison oak? _____ **What is the level of severity?** _____

What Type: We have many types of properties that vary in the length of time and difficulty in monitoring. What type of properties would you be interested in monitoring?

Distance: <2 miles _____ <5 miles _____ >5 miles _____
 On Trails _____ Off Trails _____
Elevation: Relatively flat _____ Moderate hills _____ Uphill steep _____

Emergency contact information:

Emergency contact name: _____

Relationship: _____

Day phone: _____ Evening phone: _____

Please consider health issues we should know in case of emergency. These are important for the Land Trust to ensuring your safety while out in the field, in addition to matching you with protected properties to hike – let us know about allergies, medications, and recent or recovering injuries, for example.

Other comments or information we should know about:

Signature: _____ **Date:** _____



The Land Trust of Napa County
Conservation Easement Monitoring Report

Staff Use Only - Reviewed by:

Monitoring Coordinator: ES 8/09

Monitoring Cmte Chair: [Signature]

Dir. of Land Protection: _____

Easement Name: Stormy Meadows Date of Inspection: 07/25/09

Current Landowner: Jane and Bob Murray

Local Contact for Landowner (as necessary): Ted uveros, caretaker

Address & Phone: 1220 San Francisco St Napa; 707-255-2555

1. Did the owner or representative accompany you on the inspection? ☒ YES ☐ NO

If yes, list name(s): Ted uveros

2. Describe route of travel (please include a map showing the route you traveled this year; note that unless you are certain of your ability to view the entire property from your route, the route should be varied from year-to-year to ensure that the entire property is viewed):

Started in NW corner of property near main residence; walked to agricultural zone then east to property corner. walked clockwise around property to creek, over creek and then backtracked on west boundary to NW corner.

3. Describe current land use:

Forever wild + agriculture.

4. Describe any reserved rights that have been exercised (see reserved rights summary in binder):

Par. 15e - fence repair in Ag zone

5. Describe any other human alterations since the easement was last monitored or that are previously unrecorded (for example: construction or improvements to buildings and roads, fences, tree cutting or clearing, trash or hazardous materials, evidence of trespassing, alteration of waterways, etc.).

Please describe activity or alteration: note location, extent, purpose (if known), persons responsible (if known). Attach maps, photos (signed, dated, labeled) and illustrations. Please describe any applicable activity as accurately and objectively as possible.

pile of debris near zone interface (Ag/Forever wild) has been reduced from last year (photo 1-1). Some vehicular tracks are evident to and from debris pile.

(continued over)

6. Describe any natural alterations since the easement was last monitored (for example, fire, flooding, landslides, insect infestation). Attach maps, photos (please **sign, date, and label** them with a description of what the photo is depicting) & illustrations as necessary.

creek is low water level, lowest in 10 years (T. Uveros)

7. Have there been – or are there any plans for – changes in the ownership, management, or status of the property? Neighboring properties? Does landowner have new contact (phone, address, email) information?

No.

8. Record any questions or concerns of the landowner:

No.

Monitoring Team: Janet Smith, Betty Tanto

Lead Monitor: Rona Jones

Signature: _____

Date: _____

07/28/09

Please indicate the number of the following attached to this report: Photographs: 4

Maps: /

Illustrations: 0

Other (describe): 0

Please be sure to sign, date, and label all material.

**Please return this original form to The Land Trust of Napa County
1700 Soscol Avenue, Suite 20, Napa, 94559 as soon as it is completed.**

THANK YOU!

Please use this page to describe any issues or any other concerns with this property that the Monitoring Committee chairs and Land Trust staff should know about. Please also use this page to record concerns regarding neighboring parcels. This page is for internal use only and will not be sent to the landowner.

1. To the best of your knowledge and observation, are restrictions in the conservation easement being complied with? If no, please describe. Use reverse side if necessary.

Yes. It appears the landowners/caretaker are removing debris, as requested. Pile still remains and should be monitored for further removal (or additions)

2. Are there any concerns you have regarding neighboring parcels (for example, trespassing, trash, boundary problems)?

No

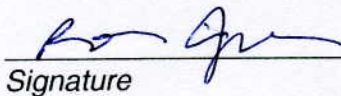
3. Are there any concerns that you have regarding borderline issues or observations that may or may not be violations that you would like the Monitoring Committee chairs to address?

No

4. Other concerns or questions:

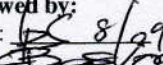
No


Lead Monitor: Rona Jones


Signature

07/28/09
Date

Staff Use Only – Reviewed by:

Monitoring Coordinator:  8/29

Monitoring Cmte Chair:  8/29

Dir. of Land Protection: _____

☒ In Compliance

☐ In Review

☐ In Violation

Property: Stormy Meadows Date: 07/25/09
Camera Focal Length: 50 mm Start Time: 2pm
Photographer: Rona Jones
Assisted by: Janet Smith, Betty Tanto

Film Type: digital

Olympus Stylus 300 Digital

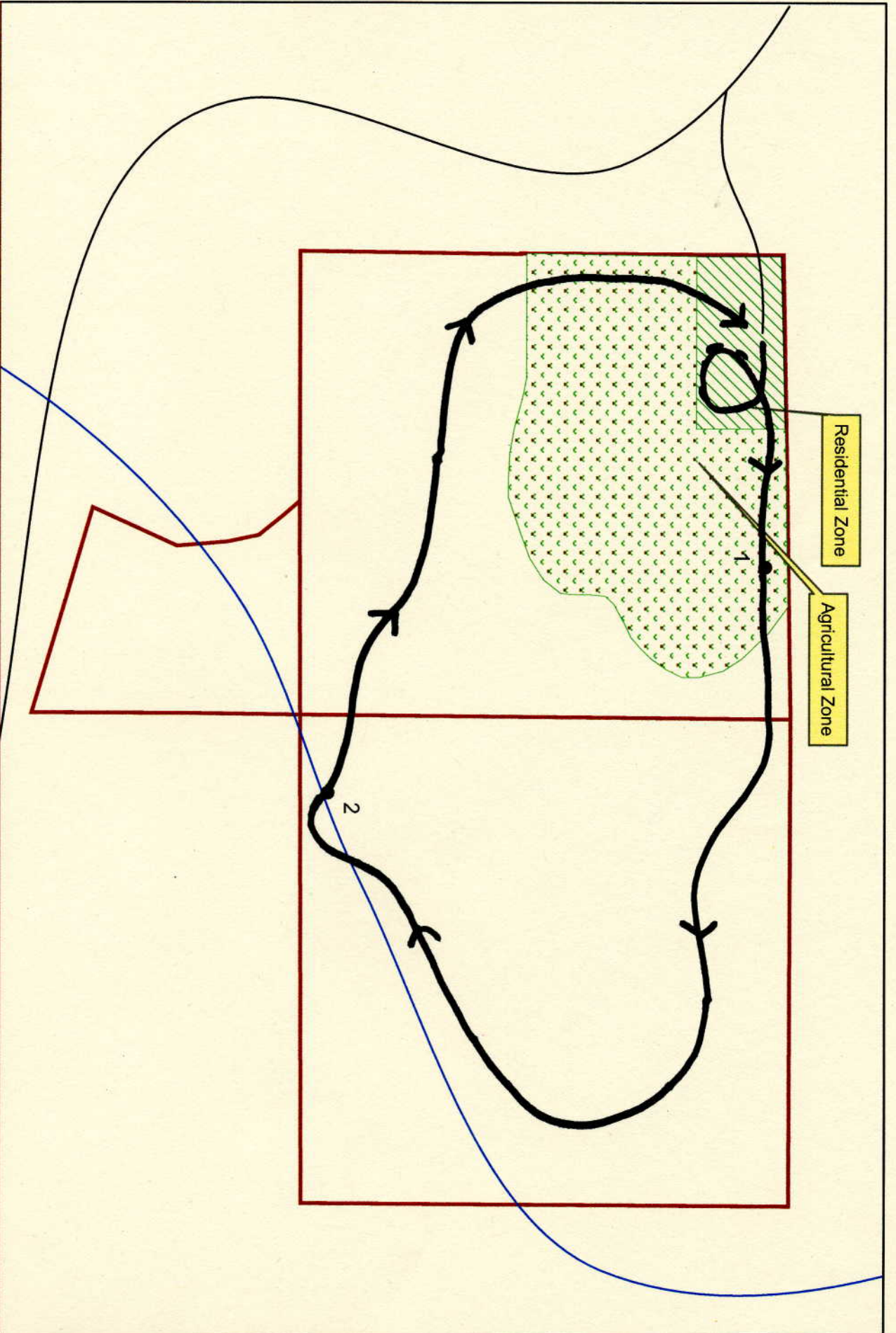
[illegible]

Monitoring Map STORMY MEADOWS CE

POPE VALLEY



Data source:
Napa Co. GIS 2009 parcels
Map is for approximate
reference use only.
Created LTNC 04/09



RW Jan 07/28/09